

Central Administrative Tribunal, Lucknow Bench, Lucknow  
Original Application No. 447 of 2006

This the 26<sup>th</sup> day of May, 2007

HON'BLE SHRI JUSTICE KHEM KARAN, VICE CHAIRMAN

Smt. Middo aged about 50 years w/o late Mohammad Rafique R/o H.No. 15-D, Dr. Dubeys Hata, Gokhaley Marg, Lucknow.

...Applicant

By Advocate: Shri A.P.Singh

Versus

1. Union of India through Secretary, Department of Mines and Minerals, Govt. of India, New Delhi.
2. Director General, Geological Survey of India, Northern Region, Sector E, Aliganj, Lucknow.
3. Dy. Director General, Geological Survey of India, Northern Region, Sector E, Aliganj, Lucknow.

..Respondents

By Advocate:- Sri S.K.Tewari

ORDER (ORAL)

BY HON'BLE JUSTICE KHEM KARAN, V.C.

The applicant is admittedly widow of late Mohd. Rafique, who died in harness on 28.5.2001, leaving behind him the applicant and two minor children. There is no dispute that she applied for appointment in Class IV on compassionate ground under dying in harness rules. After getting certain formalities fulfilled, the matter was considered by the Central Appointment Committee in accordance with relevant rules/ guidelines on the subject. Vide communication dated 7.4.2006 (A-1) ; she was informed that her request had been rejected. It is stated in it that since her case is 3



years old and there is no vacancy, so she cannot be given compassionate appointment.

2. She prays that this communication dated 7.4.2006 (Annexure NO. 1) be quashed, as according to her, the case has not properly been considered in accordance with the relevant rules and guidelines and rejection is violative of Article 14 and 16 of the Constitution. It is said in para 4.12 that the respondents have given compassionate appointment to two persons namely Sri Sarfaraj Ahmad and Govind Kumar on 18.5.2006, so there is no good ground for saying that the vacancies are not available. She says that she is not having any means to sustain the family and so she is in need of compassionate appointment.

3. The respondents have filed reply, contesting the claim of the applicant. They say that firstly O.A. is time barred and secondly in view of the guidelines contained in O.M. dated 5.5.2003 of the Govt. of India, the claim of the applicant being three years old, has rightly been rejected.

4. I have heard the parties counsel. Sri A.P.Singh, Learned counsel for applicant has brought to my notice one order dated 3.4.2007 passed by this Hon'ble Tribunal in O.A. No. 303/2006 where, without going into the merits, respondents have been directed to reconsider the case of applicant as and when vacancies arise. Sri A.P.Singh <sup>has</sup> suggests that the present O.A. may also be disposed of on the same lines. Sri A.P.Singh has also contended that the impugned order is silent on the point as to

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whether the family of the applicant is indigent or not. According to him, order in question, should have reflected that the poor economic conditions of the applicant and absence of any source of livelihood was duly considered. According to him rejections dated 7.4.2006 is bad, for want of this consideration and for want of detailed reasons. Sri S.K. Tewari has tried to support the order but he has not been able to satisfy as to why the matter of the applicant cannot be reconsidered, in future on occurrence of vacancy. The plea that the O.A. is time barred does not have legs to stand, as the same has been filed, within a year of communication dated 7.4.2006. So, I am inclined to pass orders on the lines indicated in order dated 3.4.2007.

5. In view of what has been stated above, this O.A. is finally disposed of with a direction to respondents No. 3 to get the matter of the applicant re-considered once more, in the light of relevant guidelines, as and when vacancies in this quota so become available in future. It is made clear that rejection dated 7.4.2006 will not come in the way of the respondents in reconsidering the case for compassionate appointment. No order as to costs.

*Am  
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Vice Chairman

HLS/-